



(4310-4J-P)

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

Coushatta Tribe of Louisiana – Alcoholic Beverage Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice.

SUMMARY: This notice publishes the Coushatta Tribe of Louisiana Alcoholic Beverage Control Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Coushatta Tribe's Indian country. This Ordinance will increase the ability of the tribal government to control the distribution and possession of liquor within its reservation and at the same time will provide an important source of revenue and strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Act is effective as of [insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Chanda M. Joseph, Tribal Relations Specialist, Eastern Regional Office, Bureau of Indian Affairs, 545 Marriott Drive, Suite 700, Nashville, TN 37214; Telephone (615) 564-6750; Fax (615) 564-6701; or De Springer, Office of Indian Services, 1849 C Street, N.W., MS/4513/MIB, Washington, DC 20240; Telephone (202) 513-7626; Fax (202) 208-5113.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953; Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Coushatta Tribal Council adopted the Ordinance, by Coushatta Tribe of Louisiana Tribal Council Resolution No. 2011-32, on March 30, 2011.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary – Indian Affairs. I certify that the Tribal Council duly adopted the Coushatta Tribe of Louisiana Alcoholic Beverage Control Ordinance on March 30, 2011.

Date: February 13, 2012

Larry Echo Hawk
Assistant Secretary – Indian Affairs

The Coushatta Tribe of Louisiana Alcoholic Beverage Control Ordinance reads as follows:

Section 1. Title

This Ordinance shall be known as the Coushatta Tribe of Louisiana Alcoholic Beverage Control Ordinance.

Section 2. Purpose

The purpose of this Ordinance is to authorize, regulate and control the possession, transportation, purchase, sale and serving of alcoholic beverages within the Indian Country of the Coushatta Tribe of Louisiana in accordance with federal law, the laws of the State of Louisiana and the laws of the

Coushatta Tribe of Louisiana.

Section 3. Definitions

As used in this Ordinance, the following words shall have the following meanings unless the context clearly requires otherwise:

- a) "Alcoholic beverage" means any fluid or any solid capable of being converted into fluid, suitable for human consumption, and containing more than one-half of one percent alcohol by volume, including malt, vinous, spirituous, alcoholic or intoxicating liquors, beer, porter, ale, stout fruit juices, cider, or wine.
- b) "Gaming Enterprise" includes all businesses whose employees are subject to licensing by the Coushatta Gaming Commission.
- c) "Indian Country" means the Coushatta Tribe of Louisiana's Indian country as that term is defined in 18 U.S.C. § 1151.
- d) "Liquors" means all distilled or rectified alcoholic spirits, brandy, whiskey, rum, gin, and all similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and similar compounds.
- e) "Malt" means beverages obtained by alcoholic fermentation of an infusion or by a brewing process or concoction of barley or other grain, malt, sugars, and hops in water, including among other things, ale, beer, stout, porter, and the like. Malt beverages are exclusive of all "liquors" whether they be defined as intoxicating or spirituous liquors, or as alcoholic, vinous, or malt liquors, or however otherwise defined as liquors, which are produced by distillation.
- f) "Sale" and "sell" means:

- i) any exchange, barter, and traffic of alcoholic beverages; or
 - ii) the selling of or supplying or distributing, by any means whatsoever, of alcoholic beverages; or
 - iii) the serving, giving or distributing of alcoholic beverages, whether or not money is requested or paid in connection with such service, giving, or distribution, except that any of the above actions taken by a wholesaler of alcoholic beverages that is duly licensed by the State of Louisiana is not a "sale" and is not subject to licensure under this Ordinance.
- g) “Tribe” shall mean the Coushatta Tribe of Louisiana.
- h) “Tribal Council” shall mean the duly elected governing body of the Coushatta Tribe of Louisiana.
- i) “Wine” shall mean all beverages made from the fermentation of fruits, berries, or grapes, with or without added spirits, and shall include all sparkling wine, which means champagne and any other effervescent wine charged with carbon dioxide, whether artificially or as the result of secondary fermentation of the wine within the container; and still wine, which means any non-effervescent wine, including any fortified wine, vermouth, any artificial imitation wine, any compound sold as “still wine,” and any fruit juice.

Section 4. General

The possession, transportation, purchase, and sale of alcoholic beverages shall be lawful within Indian Country, provided that such possession, transportation, purchase and sale are in conformity with the provisions of this Ordinance and the laws of the State of Louisiana.

Section 5. Tribal License or Permit Required

- a) No person shall sell any alcoholic beverage within Indian Country unless duly licensed to do so by the Tribe in accordance with the terms of this Ordinance and the laws of the State of Louisiana. Notwithstanding the foregoing, no license is required for the possession or service of alcoholic beverages at a private residence within Indian Country under this Ordinance provided that no money is requested or paid in connection with such service or possession. Such service or possession must in any event comply with the laws of the State of Louisiana.
- b) Notwithstanding subsection (a), if (1) the Tribe or its gaming enterprise seeks to sell alcoholic beverages within Indian Country and (2) the Tribe or its gaming enterprise, as the case may be, is or will be duly licensed by the State of Louisiana to sell alcoholic beverages, then the Tribe and/or its gaming enterprise may sell such beverages without applying for or obtaining a Tribal Alcoholic Beverage License.

Section 6. Tribal Alcoholic Beverage License; Requirements

No tribal license shall issue under this Ordinance except upon a sworn application filed with the Tribal Council containing a full and complete showing of the following:

- a) Satisfactory proof that the applicant is or will be duly licensed by the State of Louisiana;
- b) Satisfactory proof that the applicant is of good character and reputation and that the applicant is financially responsible;

- c) The description of the premises in which the alcoholic beverages are to be sold, and proof that the applicant is the owner of such premises, or lessee of such premises, or is otherwise entitled by law to use such premises, for at least the term of the license;
- d) Agreement by the applicant to accept and abide by all conditions of the tribal license;
- e) Payment of a fee as prescribed by the Tribal Council;
- f) Satisfactory proof that neither the applicant nor the applicant's spouse has ever been convicted of a felony; and
- g) Satisfactory proof that notice of the application has been posted in a prominent, noticeable place on the premises where alcoholic beverages are to be sold for at least 30 days prior to consideration by the Tribal Council and that such notice has been published at least twice in such local newspaper serving the community that may be affected by the license as the Tribal Chairman or Secretary may authorize. The notice shall provide contact information for purposes of written comment by the public on the application and indicate the last date by which such written comments will be accepted by the Tribal Council. Contact information and a final comment date shall be provided to each applicant upon request. The Tribal Council will consider all such comments prior to holding a hearing on the application pursuant to this Ordinance.

Section 7. Hearing on Application for Tribal Alcoholic Beverage License

- a) All applications for a tribal alcoholic beverage license shall be considered by the Tribal Council in a session at which the applicant shall have the right to be present. The Tribal Council may also summon to the hearing any person(s) supporting or opposing the application who submitted written comments by the comment deadline. All applicants and

any person summoned by the Tribal Council to attend the hearing shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application.

b) Prior to conducting the hearing the Tribal Council may order a background investigation of the applicant or any of the individuals listed on the applicant's license application.

c) After the hearing, the Tribal Council, by secret ballot, shall determine whether to grant or deny the application, based on:

i) Whether the requirements of Section 6 of this Ordinance have been met; and

ii) Whether the Tribal Council, in its discretion, determines that granting the license is in the best interests of the Tribe.

d) In the event that the applicant is a member of the Tribal Council, or a member of the immediate family of a Council member, such member shall not vote on the application or participate in the hearings as a Council member.

Section 8. Temporary License

a) The Tribal Council or its designee may grant a temporary license for the sale of alcoholic beverages for a period not to exceed three (3) days to any person applying for the same in connection with a Tribal or community activity, provided that the application shall be made as provided by Sections 6 and 7 of this Ordinance, and that the conditions prescribed in Sections 9(b) through 9(j) of this Ordinance, as well as any other reasonable conditions as the Tribal Council may establish, shall be observed by the temporary licensee.

b) Each temporary license issued shall specify the types of alcoholic beverages to be sold, as well as the specific place, dates and times when the permit is valid.

- c) A fee, established by the Tribal Council, will be assessed on applications for temporary licenses.

Section 9. Conditions of the Tribal License

Any tribal license issued under this Ordinance shall be subject to such reasonable conditions as the Tribal Council shall establish, including, but not limited to the following:

- (a) A regular license shall be valid for a term of one year. A temporary license shall be valid for a period of not to exceed three days.
- (b) The licensee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises.
- (c) The licensed premises shall be subject to patrol by the tribal Police Department, and such other law enforcement officials as may be authorized under tribal or federal law.
- (d) The licensed premises shall be open to inspection by duly authorized tribal officials at all times during regular business hours.
- (e) All sales of alcoholic beverages shall be for the personal use and consumption of the purchaser, and no resale of any alcoholic beverage is permitted, except that a licensed retailer of alcoholic beverages may purchase alcoholic beverages for resale within Indian Country.
- (f) No person under the age permitted under the law of the State of Louisiana shall be sold, served, delivered, given or allowed to consume alcoholic beverages in the licensed premises.
- (g) No alcoholic beverages shall be sold, served, disposed of, delivered, or given to any person, or consumed on the licensed premises, except in conformity with any applicable Tribal and/or Louisiana State rules limiting the hours and days on which alcoholic beverages

may be sold, served, disposed of, delivered or given to any person. In no event shall the licensed premises operate or open earlier or operate or close later than is permitted by the laws of the State of Louisiana.

(h) No alcoholic beverage shall be sold within 200 feet of a polling place on tribal election days, or when a referendum is held of the people of the Tribe, or on any special days of observance as designated by the Tribal Council.

(i) The license shall at all times be posted in a prominent, noticeable place on the premises where alcoholic beverages are to be sold.

(j) All acts and transactions executed under authority of the tribal alcoholic beverage license shall be in conformity with this Ordinance, the terms of the Tribal license, and the laws of the State of Louisiana.

Section 10. License Not a Property Right

Notwithstanding any other provision of this Ordinance, a tribal alcoholic beverage license is a mere permit for a fixed duration of time. A tribal alcoholic beverage license shall not be deemed a property right or vested right of any kind, nor shall the granting of a tribal alcoholic beverage license give rise to a presumption of legal entitlement to the granting of such license for a subsequent time period.

Section 11. Assignment or Transfer

No tribal license issued under this Ordinance shall be assigned or transferred without the written approval of the Tribal Council expressed by formal resolution.

Section 12. Revocation and Suspension

Any license issued hereunder may be suspended or revoked by the Tribal Council for the breach of

any of the provisions of this Ordinance or of the tribal license upon hearing before the Tribal Council after 10 days' notice to the licensee. The decision of the Tribal Council shall be final.

Section 13. Assignment of Authority of Tribal Council

The Tribal Council may, at its discretion, assign part or all of its hearing and licensing authority under this Ordinance by formal resolution.

Section 14. Severability

If a court of competent jurisdiction invalidates any part of this Ordinance, all valid parts that are severable from the invalid part shall remain in effect. If a part of this Ordinance is invalid in one or more of its applications, that part shall remain in effect in all valid applications that are severable from the invalid applications.

Section 15. Sovereign Immunity

Nothing contained in this Ordinance is intended to nor does in any way limit, alter, restrict, or waive the Tribe's sovereign immunity.

Section 16. Effective Date

This Ordinance shall be effective on the date that the Secretary of the Interior certifies this Ordinance and it is published in the Federal Register.